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10/692,802

10/27/2003

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EXAMINER

SEFCHECK, GREGORY B

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/692,802	Applicant(s) TAKABATAKE ET AL.	
	Examiner GREGORY B. SEFCHECK	Art Unit 2419	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 11/12/2008.

2a) ☒ This action is FINAL.                      2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 8-10, 13-24 and 26-34 is/are pending in the application.

    4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☒ Claim(s) 8-10, 13-20 is/are allowed.

6) ☒ Claim(s) 26-34 is/are rejected.

7) ☒ Claim(s) 21-24 is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All    b) ☐ Some \*    c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
    Paper No(s)/Mail Date 8/7/2008

4) ☐ Interview Summary (PTO-413)  
    Paper No(s)/Mail Date \_\_\_\_\_

5) ☐ Notice of Informal Patent Application

6) ☐ Other: \_\_\_\_\_

#### DETAILED ACTION

- Applicant's Amendment filed 11/12/2008 is acknowledged.
- Claims 8, 21, 26, 29, and 32 have been amended. The previous rejections under 35 USC 112, 2<sup>nd</sup> paragraph are withdrawn in light of the present amendments.
- Claims 1-7, 11, 12, 25, 35, and 36 have been previously cancelled.
- Claims 8-10, 13-24, and 26-34 remain pending.

#### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 26, 29, and 32 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 5, and 8 of

copending Application No. 11/030,061. Although the conflicting claims are not identical, they are not patentably distinct from each other.

Claims 26, 29, and 32 of the present application pertain to terminal devices having first and second interfaces while claim 1 of the copending application pertains to a system having first and second terminals and claim 8 of the copending application pertains to a method of operating a system having first and second terminals.

Claims 26, 29, and 32 of the present application pertain to terminal devices having first, second and third interfaces while claim 5 of the copending application pertains to a system having first, second, and third terminals.

However, the functionality of the system and method of claims 1, 5, and 8 in the copending application is the same as that of claims 26, 29, and 32 of the present application when considered in light of the specification and given the plain meanings of the claimed language.

It would have been obvious to one of ordinary skill in the art at the time of the invention to implement the terminal device having first and second interfaces of the present application as a system having first and second terminals, as shown in 11/030,061, since both the system and terminal function in the same manner regardless of the terminology used to describe them.

Further, even though claims 26, 29, and 32 of the present application are broadened by omitting the limitation of "completing/carrying out a prescribed authentication/admission procedure" in claim 5 of 11/030,061, it has been held that the

omission of an element and its function is an obvious expedient if the remaining elements perform the same function as before. In re Karlson, 136 USPQ 184(CCPA). Also note Ex parte Rainu, 168 USPQ 375 (Bd. App. 1969); omission of a reference element whose function is not needed would be an obvious variation.

It would have been obvious to one of ordinary skill in the art at the time of the invention to implement the terminal device of the current application where an authentication/admission procedure is performed, as shown in 11/030,061, since the method of the current application functions to determine delivery packets to a first terminal or interface through a first network through control of a second terminal or interface.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

*Applicant's Remarks on pg. 10 of the Amendment regarding these double patenting rejections are noted.* All other rejections raised in this application have not yet been overcome.

#### *Claim Objections*

3. Claims 21-24 are objected to because of the following informalities:

Limitations to "the own terminal" in the last limitation of claim 21 have not been changed to "the terminal device" as was done in the preceding claim limitations.

Appropriate correction is required.

*Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 26, 27, and 29-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okada et al. (US006484028B2), hereafter Okada, in view of Kenner et al. (US20050063401A1), hereafter Kenner, and Boer et al. (US005706428A), hereafter Boer.

- Regarding Claim 26,

Okada discloses an information delivery system (Title). Referring to Fig. 3, Okada discloses a first terminal 1 which can transmit and receive over network 2 (second network) and receive only over satellite network 7 (first network; claim 26 – first terminal having only reception function to a first network and both transmission and reception function to a second network).

Okada shows that data transfer to the first terminal over the satellite network (first network) is carried out by and under control of the user center 3, having a transmit interface to the satellite network and a transmit/receive interface to network 2 (second network) and the Internet 4 (third network).

Okada shows that the user center 3 contains a control unit, such as WWW processing unit 31 and automatic collaboration unit 32, for managing communication to

the first (receiving) terminal through the first network based upon user center 3 receiving a request from the first terminal through network 2 (second network) for delivery of data from terminal 5 (third device) through the Internet 4 (claim 26 – control unit configured to receive and utilize control information from the second terminal through the third network and transfer packets from a third device on the third network to the first terminal through the first network; Okada: Col. 4, lines 22-45, 58-65; Col. 5, 15-26; Col. 5-6, lines 62-37).

Okada discloses the user center as providing the functions for controlling a data transfer within the overall terminal for carrying out the data transfer, thereby meeting both the terminal and second terminal (claim 26 – terminal for carrying out data transfer to first terminal having interface for at least transmission to the first network and interface for transmission and reception with third network; claim 26 – second terminal for controlling data transfer to the first terminal that is connected to the second network and a third network different from the first and second networks).

Okada does not explicitly disclose separating the terminal and second terminal connected through a third network.

Kenner discloses a system and method for server-side optimization of data delivery (Title) in which management functions are distributed over various terminals connected through the Internet (Fig. 1; claim 26 – second terminal connected to terminal device through third network).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Okada by providing the functionality of the user center through disparate terminals connected through the Internet, as shown by Kenner, thereby enabling the functionality of the user center to be distributed to multiple terminals over the Internet, providing for greater flexibility and scalability (optimization) within the network.

Okada discloses use of the satellite network for communication of larger sized data files, but fails to expressly disclose a faster IEEE 802.11 standard network, and also fails to disclose that the intranet is a radio network.

Boer discloses an IEEE 802.11 wireless LAN that discloses mobile stations that may transmit and receive at a plurality of data rates, including higher rates that are not yet in accordance with the standard (col. 1, lines 9-30 and col. 2, lines 34-53; claim 26 – first network being a 802.11 radio network; claim 26 – second network slower than first network).

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize high-speed wireless networks that can achieve higher-than-standard rates, as shown by Boer, in order to accommodate a more flexible and adaptive corporate intranet-type network while also accommodating the transport of large, unidirectional data files to client terminals such as those in Okada.



- Regarding Claim 29,

Okada discloses an information delivery system (Title). Referring to Fig. 3, Okada discloses a first terminal 1 which can transmit and receive over network 2 (second network) and receive only over satellite network 7 (first network) (claim 29 – first terminal having only reception function to a first network and transmission and reception function to a second network).

Okada shows that data transfer to the first terminal over the satellite network (first network) is carried out by and under control of the user center 3, having a transmit interface to the satellite network and a transmit/receive interface to network 2 (second network) and the Internet 4 (third network).

Okada shows that the user center 3 contains a control unit, such as WWW processing unit 31 and automatic collaboration unit 32, for managing reception of data at the first terminal through the first network based upon user center 3 receiving a request from the first terminal through network 2 (second network) for delivery of data from terminal 5 (third device) through the Internet 4 (claim 29 – control unit configured to receive packets at the first terminal through the first network from a third device on the third network by second terminal communicating with the first terminal through the second network and the third device through the third network ; Okada: Col. 4, lines 22-45, 58-65; Col. 5, 15-26; Col. 5-6, lines 62-37).

Okada discloses the user center as providing the functions for controlling a data transfer within the overall terminal for carrying out the data transfer, thereby meeting

both the terminal and second terminal (claim 29 – terminal for carrying out data transfer to first terminal having interface for at least transmission to the first network and interface for transmission and reception with third network; claim 29 – second terminal for controlling data transfer to the first terminal that is connected to the second network and a third network different from the first and second networks).

Okada does not explicitly disclose separating the terminal and second terminal connected through a third network.

Kenner discloses a system and method for server-side optimization of data delivery (Title) in which management functions are distributed over various terminals connected through the Internet (Fig. 1; claim 29 – second terminal connected to terminal device through third network).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Okada by providing the functionality of the user center through disparate terminals connected through the Internet, as shown by Kenner, thereby enabling the functionality of the user center to be distributed to multiple terminals over the Internet, providing for greater flexibility and scalability within the network.

Okada discloses use of the satellite network for communication of larger sized data files, but fails to expressly disclose a faster IEEE 802.11 standard network, and also fails to disclose that the intranet is a radio network.

Boer discloses an IEEE 802.11 wireless LAN that discloses mobile stations that may transmit and receive at a plurality of data rates, including higher rates that are not

yet in accordance with the standard (col. 1, lines 9-30 and col. 2, lines 34-53; claim 29 – first network being a 802.11 radio network; claim 29 – second network slower than first network).

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize high-speed wireless networks that can achieve higher-than-standard rates, as shown by Boer, in order to accommodate a more flexible and adaptive corporate intranet-type network while also accommodating the transport of large, unidirectional data files to client terminals such as those in Okada.

- Regarding Claim 32,

Okada discloses an information delivery system (Title). Referring to Fig. 3, Okada discloses terminal 1 having an interface to transmit and receive over network 2 (second network) and receive interface with satellite network 7 (first network) (claim 32 – terminal having receive interface to a first network and transmit/receive interface to a second network).

Okada shows that terminal 1 receives data (packets) over the satellite network (first network) from user center 3 (first terminal), which also has a transmit/receive interface (second terminal) to network 2 (second network) and the Internet 4 (third network).

Okada shows that terminal 1 transmits a request for data from terminal 5 (third device on Internet 4) over network 2 to user center 3 (second terminal). Terminal 5 responds to the request by transmitting data through Internet 4 and through user center

3 (first terminal) to be received by terminal 1 over the satellite (first) (claim 32 – control unit configured to transmit request with respect to third device on the third network to second terminal through the second network and, in response to the request, receive packets from the third device relayed by the first terminal through the first network; Okada: Col. 4, lines 22-45, 58-65; Col. 5, 15-26; Col. 5-6, lines 62-37).

Okada discloses the user center as providing the functions for controlling a data transfer within the overall terminal for carrying out the data transfer, thereby meeting both the terminal and second terminal (claim 32 – terminal for carrying out data transfer to first terminal having interface for at least transmission to the first network and interface for transmission and reception with third network; claim 32 – second terminal for controlling data transfer to the first terminal that is connected to the second network and a third network different from the first and second networks).

Okada does not explicitly disclose separating the terminal and second terminal connected the terminals through a third network.

Kenner discloses a system and method for server-side optimization of data delivery (Title) in which management functions are distributed over various terminals connected through the Internet (Fig. 1; claim 32 – second terminal connected to terminal device through third network).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Okada by providing the functionality of the user center through disparate terminals connected through the Internet, as shown by Kenner, thereby

enabling the functionality of the user center to be distributed to multiple terminals over the Internet, providing for greater flexibility and scalability within the network.

Okada discloses use of the satellite network for communication of larger sized data files, but fails to expressly disclose a faster IEEE 802.11 standard network, and also fails to disclose that the intranet is a radio network.

Boer discloses an IEEE 802.11 wireless LAN that discloses mobile stations that may transmit and receive at a plurality of data rates, including higher rates that are not yet in accordance with the standard (col. 1, lines 9-30 and col. 2, lines 34-53; claim 32 – first network being a 802.11 radio network; claim 32 – second network slower than first network).

It would have been obvious to one of ordinary skill in the art at the time of the invention to utilize high-speed wireless networks that can achieve higher-than-standard rates, as shown by Boer, in order to accommodate a more flexible and adaptive corporate intranet-type network while also accommodating the transport of large, unidirectional data files to client terminals such as those in Okada.

- Regarding Claim 27,

Okada discloses an information delivery system that meets all limitations of the parent claims. Okada shows that the user center 3 contains a control unit, such as WWW processing unit 31 and automatic collaboration unit 32, for managing communication to the first (receiving) terminal through the first network based upon user

center 3 receiving a request from the first terminal through network 2 (second network) for delivery of data. Fig. 3 of Okada also shows use of destination address conversion units 33,34 for converting a destination provided with respect to the second network into an ID (address) of the satellite network (Col. 6, lines 15-41; claim 27 – control unit notifies an interface address of the first interface to the another terminal through the second/third interface).

- Regarding Claim 30 and 31,

Okada discloses an information delivery system that meets all limitations of the parent claim. Fig. 3 of Okada also shows use of destination address conversion units 33,34, which stores an ID and address of the first and second network interfaces with respect to all terminals, for converting a destination between all three networks (Col. 4, lines 46-50; Col. 6, lines 15-41).

Okada further shows that the user center maintains a user table 36 in order to identify (check) a delivery request with respect to the various network address interfaces and conditions for each user (Col. 13-14, lines 61-13; claim 30 – control unit also receives an interface address of an interface of the second terminal for carrying out a packet transmission over first network from the first terminal through the second network, checks whether the interface address exists on the third network and returns a response indicating a result of checking to the first terminal through the second network; claim 31 – control unit transfers a packet with the interface address specified therein

received from the first terminal through the second network towards the interface address through the third network).

- Regarding Claims 33 and 34,

Okada discloses an information delivery system that meets all limitations of the parent claim. Fig. 3 of Okada also shows use of destination address conversion units 33,34, which stores an ID and address of the first and second network interfaces with respect to all terminals, for converting a destination between all three networks (Col. 4, lines 46-50; Col. 6, lines 15-41; claim 33 – control unit receives an interface address of an interface of the first terminal for carrying out packet transmission and reception with the third network from the first terminal through the first network, and notifies the interface address to the second terminal through the second network; claim 34 – control unit transmits a packet with the interface address specified therein to the second terminal through the second network).

6. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Okada in view of Kenner and Boer as applied to claim 27 above, and further in view of Hanson et al. (US 20050223115A1), hereafter Hanson.

- Regarding Claim 28,

Okada discloses an information delivery system that meets all limitations of the parent claim.

Okada discloses the first network as a broadcasting satellite system, but does not explicitly disclose broadcasting the interface address through the first network.

Hanson discloses providing mobile and other intermittent connectivity in a computing environment (Title) in which nodes are identified in the overall network through DHCP messages in which a node's interface address is broadcast throughout the network (Pg. 19, paragraph 286; claim 28 – broadcasting the interface address through the first network).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Okada by broadcasting an interface address throughout the network, as shown by Hanson, thereby enabling the user center to dynamically maintain address conversion information for user's that require mobile service or other types of intermittent connectivity.

*Allowable Subject Matter*

7. Claims 8-10, 13-20 and 21-24 (pending resolution of the above objection to claim 21) are allowed.

*Response to Argument*

8. Applicant's arguments with respect to claims 26, 29, and 32 have been considered but are moot in view of the new ground(s) of rejection.



*Conclusion*

9. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GREGORY B. SEFCHECK whose telephone number is (571)272-3098. The examiner can normally be reached on Monday-Friday, 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on 571-272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gregory B Sefcheck/  
Primary Examiner, Art Unit 2419  
2-13-2009